

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MARSHALL-ALAN GIDNEY,

Plaintiff(s),

v.

CLARK COUNTY ELECTION  
DEPARTMNET,

Defendant(s).

Case No. 2:24-cv-02036-JAD-NJK

**REPORT AND RECOMMENDATION**

[Docket No. 1]

Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*.  
Docket No. 1.

The Court may authorize the commencement of an action without prepayment of fees and costs, or security therefor, by a person who has shown an inability to pay such costs. 28 U.S.C. § 1915(a)(1). A determination of whether the plaintiff has shown an inability to pay is a matter left to the discretion of the Court. *See, e.g., Flores v. Colvin*, 2014 U.S. Dist. Lexis 93236, at \*2 (D. Nev. May 22, 2014), *adopted*, 2014 U.S. Dist. Lexis 93234 (D. Nev. July 9, 2014). While an applicant need not be absolutely destitute to qualify for a waiver of costs and fees, the applicant must demonstrate an inability to pay those costs while still providing for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

In this case, Plaintiff's application is incomplete in that he indicates that he is self-employed but he does not identify the amount he has received and expects to receive in the future from that self-employment. *See* Docket No. 1 at 1 (questions 2, 3). Even more problematically, however, Plaintiff's application shows that he has significantly more money on hand than is required for the filing fee. *See id.* at 2 (identifying \$2,814 in cash or in checking/savings accounts).

1 Accordingly, the undersigned **RECOMMENDS** that the application to proceed *in forma*  
2 *pauperis* be **DENIED** and that Plaintiff be required to pay the filing fee.

3 Dated: November 4, 2024

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6 Nancy J. Koppe  
7 United States Magistrate Judge

8 **NOTICE**

9 This report and recommendation is submitted to the United States District Judge assigned  
10 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and  
11 recommendation must file a written objection supported by points and authorities within fourteen  
12 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file  
13 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951  
14 F.2d 1153, 1157 (9th Cir. 1991).  
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